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State Water Resources Control Board

Division of Water Rights

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Gray Davis
Governor

NOTICE OF DETERMINATION

Pursuant to Section 21108
Public Resources Code

To: Office of Planning & Research
State Clearinghouse
1400 Tenth Street
Sacramento, CA 95814

From: State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

PROJECT TITLE: Application to Appropriate Water

APPLICATION NOS.
A029061, A029062, A029063,
A029066, A030267, A030268,
A030269, A030270 and Petitions
to Change These Applications

APPLICANT: Delta Wetlands Properties

PROJECT DESCRIPTION: Delta Wetlands (DW) Properties proposes to divert unappropriated water for storage on two islands – Bacon Island and Webb Tract - in the Sacramento/San Joaquin Delta (“reservoir islands”), and to convert two other islands – Bouldin Island and most of Holland Tract – into habitat islands. The combined capacity of the two reservoir islands is 238,000 acre feet (AF). The habitat islands will provide mitigation for impacts to listed species, loss of wetland habitat, and enhancement of wildlife habitat. The DW Project will include recreational facilities on all four islands. The State Water Resources Control Board (SWRCB) decision approving the project cancels four of the applications and their petitions for change, originally requested for the habitat islands; these are: A029061, A029063, A030267, and A030269.

Two sets of siphons located on the perimeter levees will divert water onto the reservoir islands. The DW Project will divert water primarily in the fall and winter months. One set of large pumps on each reservoir island will discharge the stored water. The DW Project will discharge water primarily in summer or fall for use in the export service areas of the Central Valley Project and the State Water Project, or for Delta environmental requirements.

The Final Environmental Impact Report (FEIR) estimates that the average annual yield of the DW Project, operating under current conditions, is approximately 114,000 AF. Average annual yield could increase to 147,000 AF or more with future increased Delta export pumping capacity and higher demand.

The FEIR for the DW Project describes many significant environmental impacts. The Final Biological Opinions of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game reduce many of these impacts to a less than significant level. Water right protest dismissal agreements between DW and various parties to the SWRCB's water right hearing process incorporate additional mitigation measures. Finally, to mitigate other impacts, the SWRCB has included other terms and conditions in the DW water right permits. Some impacts cannot be mitigated to a less than significant level. For those unmitigable impacts within the responsibility of the SWRCB, the water right decision for the DW Project includes findings of overriding consideration.

PROJECT LOCATION: Sacramento/San Joaquin Delta: Bacon Island and Bouldin Island, in San Joaquin County; Webb Tract and most of Holland Tract, in Contra Costa County.

STATE CLEARINGHOUSE NUMBER: 1995093022

The State Water Resources Control Board is Lead Agency under the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* This is to advise that the State Water Resources Control Board approved the above-described project on February 15, 2001 and made the following determinations:

1. A Final Environmental Impact Report (FEIR) was prepared and certified for this project.
2. As approved, the project will have significant effects on the environment.
3. The decision of the State Water Resources Control Board approving the project includes findings pursuant to section 15091 of California Code of Regulations, Title 14. The decision requires specific mitigation measures as permit terms for the project. These terms incorporate Final Biological Opinion requirements, terms of protest dismissal agreements, and additional terms and conditions required by the SWRCB.
4. Some impacts of the project are significant, unavoidable, and unmitigable to a less than significant level. For those impacts within the responsibility of the SWRCB, the water right decision approving this project adopts statements of overriding consideration.

This is to certify that the State Water Resources Control Board has considered the information in the Final Environmental Impact Report prior to approving the project. This also certifies that the FEIR was completed in compliance with the provisions of the California Environmental Quality Act, and the FEIR reflects the SWRCB's independent judgment and analysis. A copy of the final

EIR and a copy of the decision approving the project may be obtained from the contact person listed below.

PUBLIC NOTICE

This Notice of Determination is being mailed to all parties who commented on the 1995 Draft EIR and/or the 2000 Revised EIR, and to those listed on the attached Delta Wetlands Interested Parties mailing list and the Supplemental mailing list. In addition, it will be available for public inspection on the following website address: www.waterrights.ca.gov/hearings

Contact Person: James E. Sutton

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APPROVAL OF THE ABOVE IS RECOMMENDED BY:

Original signed by **Feb. 16, 2001**
James E. Sutton Date
Senior Environmental Specialist

Original signed by **Feb. 16, 2001**
Michael Falkenstein, Chief Date
Environmental Section

APPROVED:

Original signed by **Feb. 16, 2001**
Harry M. Schueller, Chief Date
Division of Water Rights